

EXCERPTS FROM ROSEMEAD MUNICIPAL CODE

TITLE 17 ZONING

CHAPTER 17.100 OAK TREE PRESERVATION

17.100.010 Purpose and intent.

This chapter is established to recognize oak trees as significant historical, aesthetic and ecological resources and to create favorable conditions for the preservation and propagation of this unique irreplaceable plant heritage for the benefit of the current and future residents of the city. It is the intent of this chapter to maintain and enhance the public health, safety and welfare through the mitigation of soil erosion and air pollution. It is also the intent of this chapter to preserve and enhance property values through conserving and enhancing the distinctive and unique aesthetic character of many areas of the city in which oak trees live.

(Prior code § 9130)

17.100.020 Scope.

The provisions of this chapter shall apply to all oak trees on all public property and to private property which is vacant, undeveloped, or in the process of modification.

(Prior code § 9130.1)

17.100.030 Definitions.

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Arborist" means a person who is a California Certified Arborist; a person accredited by the International Society of Arboriculture in California.

"Director," in a matter involving private property, means the Planning Director and "director," in a matter involving public property or property to be dedicated for public use, means the City Engineer and "director," in a matter involving public parks property, means the Director of Parks and Recreation.

"Drip line" means a series of points formed by the vertical dripping of water from the outward branches and leaves of a tree.

"Modification, process of" means the change in any land that has or had improvements, buildings and the like for another or expanded use. For the purposes of this subsection, minor maintenance and repair of existing structures and accessory buildings would be exempt from the provisions.

"Oak tree" means any tree of the quercus genus (oak) thirty-seven and one-half (37.6) inches circumference; (twelve (12) inches in diameter) as measured four and one-half feet above the root crown or, in the case of any such tree with a circumference of any two trunks of at least thirty-seven and one-half (37.6) inches (12 inches in diameter) as measured four and one-half feet above the root crown. Oak tree shall not apply to any tree grown or held for sale in a licensed nursery, nor to the first removal or transplanting of a tree pursuant to the operation of a licensed nursery business.

"Preservation" means the acts of keeping or saving a tree from harm or destruction by proper maintenance, pruning, treatment and other means of safeguarding trees.

"Private property" means land owned by individuals, partnerships, corporations, firms, churches, fraternities and the like to which land access by the public is generally restricted.

"Pruning" and/or **"trimming"** means the cutting of any limb or branch.

"Public property" means land owned by a public or governmental entity and generally accessible to the public.

"Root crown" means that portion of a tree trunk from which roots extend laterally into the ground.

"Undeveloped property" means land which is in its natural, original or pristine state.

"Vacant property" means land on which no buildings or improvements have been erected but which may have been graded for drainage or other purposes.

(Prior code § 9130.2)

17.100.040 Permit--Required.

Any person desiring to remove, cut down, destroy, relocate, prune and/or trim, or otherwise undertake activities which could inflict damage to an oak tree, as defined in Section 17.100.030, shall first obtain a tree permit from the city. The pruning and/or trimming of limbs or branches less than twenty-eight (28) inches in circumference (nine inches in diameter) shall be exempt from the requirements of this section.

(Prior code § 9130.3(A))

17.100.050 Permit--Applications.

Prior to the granting of a tree permit, an application for a tree permit shall be submitted to the Director. The basic form, content, instructions, procedures and requirements of the application package deemed necessary and appropriate for the proper enforcement of this chapter shall be established by the Director.

(Prior code § 9130.3(B))

17.100.060 Permit--Approval or denial.

Upon the review of an application for a tree permit duly filed in accordance with the approved procedures and requirements (and after an on-site inspection by the Director or his or her designated representative), the Director shall grant or deny a tree permit on the basis of the standards set forth in this chapter.

(Prior code § 9130.3(C))

17.100.070 Permit approval--Conditions.

Such conditions as deemed necessary and appropriate to insure the proper enforcement of this chapter may be made a part of the tree permit. Such conditions may involve, but shall not be limited to, the following:

- A. The replacement of the oak tree proposed for removal with oak trees of a suitable type, size, number, location and date of planting based upon a ratio of two new trees for every one removed;
- B. In cases where conditions preclude the project site from planting the replacement trees, the Director may consider planting replacement trees on public property such as designated open space areas, public parks, etc.;
- C. A plan as outlined in Exhibit A attached to the ordinance codified in this chapter, for protecting oak trees on the project site during and after development, such as, but not limited to, the installation of six feet high chain link fencing five feet beyond the drip lines and, four signs, two feet square containing the following language: "Protected Oak Tree--Warning--This fence shall not be removed or relocated without written authorization from the City of Rosemead Department of Planning";
- D. Restrictions upon cuts, fills and/or grading within the drip line area;
- E. The submittal of a tree report prepared by a certified arborist evaluating oak trees as defined in Section 17.100.030. The report shall evaluate and recommend proper mitigation measures including but not limited to, relocation, trimming, reinforcing, bracing and other measures needed to preserve the oak trees. All oak trees identified in the report shall be numerically tagged for identification purposes with a two-inch square metal marker.
(Prior code § 9130.3(D))

17.100.080 Permit expiration.

An approved tree permit which is not used within the time specified in the approval or, if no time is specified, within one year after the granting of such approval, shall become null and void and of no effect, except, where an application requesting an extension is filed prior to such expiration date, the Director may extend such time for a period not to exceed one year.
(Prior code § 9130.3(E))

17.100.090 Exemptions from permit requirements.

The provisions of Sections 17.100.040 through 17.100.100 shall not apply to the following:

- A. Any permit, variance, tentative tract map, or minor land division approved prior to June 26, 1990, by staff, the Council or Planning Commission in instances where such trees, as defined in Section 17.100.070, were specifically considered in such approval;
- B. Cases of emergency caused by a tree being in a hazardous or dangerous condition as determined by the Director or any member of the Sheriff's Department, Fire Department, City Engineer, Parks and Recreation Department, or an affected utility company; and
- C. The necessary cutting and trimming of trees when done for the purpose of protecting or maintaining overhead public utility lines.
(Prior code § 9130.3(F))

17.100.100 Permit fees.

Applications for tree permits shall be accompanied by appropriate fees as established by a resolution of the Council, which fees shall be commensurate with the cost of processing and reviewing applications for permits and administering this chapter.

(Prior code § 9130.3(G))

17.100.110 Standards for granting permits.

The granting of a tree permit pursuant to this chapter shall be based on the following:

- A. The condition of the oak tree with respect to disease, danger of falling, and the proximity to existing or proposed structures;
- B. The necessity to remove an oak tree in order to construct proposed improvements to prevent economic hardships to the owner of the property. The burden of proof shall be the responsibility of the applicant at the time of the application to remove the tree;
- C. The topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters;
- D. The number of oak trees existing in the neighborhood on improved property. Decisions shall be guided by the standards established in the neighborhood and the effect of the heritage tree removal upon property values in the area; and
- E. Good forestry practices, such as the number of healthy heritage trees which a given parcel of land or area can support.

(Prior code § 9130.4)

17.100.120 Tree preservation plan.

When an application is filed for a conditional use permit for commercial development, tentative tract map, design review, or minor land division concurrently a tree preservation plan shall be submitted showing all trees. The plan shall be drawn to twenty (20) scale or equivalent. A tentative map or land surveyors map may be used as a substitute for a tree preservation plan provided the following information listed in subsections A through I of this section is included on the map. All tree preservation plans shall include the following information:

- A. Location of all trees;
- B. Proposed property lines;
- C. Tree drip lines;
- D. Botanical and common names of all trees;
- E. Contour lines at one-foot intervals showing elevations of the site;
- F. Existing and proposed elevations caused by grading on the site;
- G. Location of existing and proposed buildings, paving or other structures;

H. The size, type, location and depth of proposed utility trenching or easement;

I. Any additional information as required by the Director.

The plan shall show details to justify any tree that is to be relocated or removed at the subdivision, grading, or construction stages of development.

Failure to submit the plan in acceptable detail, shall be grounds for rejection as an incomplete development application pursuant to Section 65940 of the Government Code.
(Prior code § 9130.5)

17.100.130 Appeals.

The Planning Commission shall hear and act on any appeal of a decision of the Director in the administration or enforcement of this chapter. Appeals of decisions of the Planning Commission shall be subject to appeal to the City Council pursuant to the provisions set forth in Sections 17.124.010 through 17.124.070.
(Prior code § 9130.6)

17.100.140 Violations--Penalties.

Any violation of the provisions of this chapter or of any permit granted pursuant to this chapter shall be a misdemeanor, and any person found guilty of such violation shall be punishable as set forth in Chapter 1.16.
(Prior code § 9130.7)

TITLE 1 GENERAL PROVISIONS

CHAPTER 1.16 GENERAL PENALTY

1.16.010 Violations--Penalties.

No person shall violate any provisions, or fail to comply with any of the requirements of this code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this code, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.

In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be, by this city, summarily abated as such, and every day such condition continues shall be regarded as a new and separate offense.

(Amended during 1999 codification; prior code § 1200)

1.16.020 Violation by minor.

Notwithstanding any other provision of this code, when a person under the age of eighteen (18) years is charged with a violation of this code, and a peace officer issues a notice to appear in Superior Court to that minor, the charge shall be deemed an infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code. The amount of the fine imposed shall be set by the court.

(Ord. 757 § 1, 1995: prior code § 1200(a))